

**ANNUAL REPORT
OF THE
ADMINISTRATIVE RULES
OVERSIGHT COMMITTEE**



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

October, 2002

INDIANA LEGISLATIVE COUNCIL

2002

Speaker John Gregg

Chairman

Sandborn

Senator Robert Garton

Vice-Chairman

Columbus

Representative Brian Bosma

Indianapolis

Senator Richard Young

Milltown

Representative Mark Kruzan

Bloomington

Senator Harold Wheeler

Larwill

Representative Dale Grubb

Covington

Senator Joseph Harrison

Attica

Representative William Cochran

New Albany

Senator Patricia Miller

Indianapolis

Representative Charlie Brown

Gary

Senator Thomas Wyss

Fort Wayne

Representative Kathy Richardson

Noblesville

Senator James Lewis

Charlestown

Representative Richard Mangus

Lakeville

Senator Earline Rogers

Gary

Philip J. Sachtleben
Executive Director
Legislative Services Agency

ADMINISTRATIVE RULES OVERSIGHT COMMITTEE

Membership Roster

Senators

Luke Kenley, Chairperson
Noblesville

Teresa Lubbers
Indianapolis

Lindel Hume
Princeton

Richard Young
Milltown

Representatives

Jerry Denbo
French Lick

John Frenz
Vincennes

Michael Murphy
Indianapolis

Phil Hinkle
Indianapolis

Staff

Susan Kennell
Attorney for the Committee

Chuck Mayfield
Fiscal Analyst for the Committee

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.state.in.us/legislative/>.

I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES

The Indiana General Assembly created the Administrative Rules Oversight Committee by statute. IC 2-5-18-4 specifies that the purpose of the Committee is to exercise "oversight over the rules of any agency that is not listed in IC 4-21.4.2.4". IC 2-5-18-8 directs the committee to do the following:

Sec. 8. (a) The committee shall receive and may, at its discretion, review a complaint filed by a person regarding a rule or practice of an agency.

(b) The committee may review an agency rule, an agency practice, or a failure of an agency to adopt a rule.

(c) The committee may recommend that a rule be modified, repealed, or adopted.

(d) When appropriate, the committee shall prepare and arrange for the introduction of a bill to clarify the intent of the general assembly when the general assembly enacted a law or to correct the misapplication of a law by an agency.

The Legislative Council, in Legislative Council Resolution 02-01 referred the following study topic to the Committee for the interim between the 2002 and 2003 Sessions of the General Assembly:

Adjudicating commercial trucking related safety fines (SCR 50 - Senator Marvin Riegsecker).

II. INTRODUCTION AND REASONS FOR STUDY

The Legislative Council assigned to the Committee the duty of gaining information concerning commercial trucking related safety fines. This report will cover only the activities of the Committee in relation to that activity. The report will not cover the activities of the Committee in its statutory duty to oversee rules and procedures of state agencies.

III. SUMMARY OF WORK PROGRAM

The Committee met two times following the conclusion of the 2002 Session of the General Assembly. Both meetings were held at the State House in Indianapolis.

At the first meeting, held on September 10, 2002, the Committee considered the topic assigned by the Legislative Council to the Committee. A final report containing a description of the testimony concerning the topic assigned by the Legislative Council was reviewed and adopted at the second meeting held on October 4, 2002.

IV. SUMMARY OF TESTIMONY

The Committee heard the following testimony concerning the topic assigned by the Legislative Council:

A. Mr. Kenny Cragen, Indiana Motor Truck Association, testified concerning one stop shop enacted in 1985 for commercial driver's licenses. According to Mr. Cragen, there were three purposes for the one stop shop concept, including elimination of duplication of effort among state agencies, expediting obtaining licenses, and increasing cooperation with other states. There can be improvements in the one stop shop process, but it is a real improvement over the previous system. He advocated the use of a civil fine program administered by the State Department of Revenue.

B. Mr. Jim Poe, Administrator, Department of Revenue, Motor Carrier Services, discussed civil forfeiture, specifically elements of the Ohio system. Mr. Poe said that the Ohio system does not address issues of drug, alcohol, and weapon violations in a manner that would be beneficial to Indiana. Mr. Poe indicated that there were problems with inconsistencies over the way local courts handle trucking violations. He advocated use of a civil fine program by state authorities.

C. Major John Hill, Indiana State Police, Commercial Vehicle Enforcement, provided the Committee with information concerning the number of enforcement officers needed and the salaries of the officers. He stated that while the need for more enforcement has increased, the amount of money spent has not been keeping pace. Also, officers are not paid enough money to attract and retain them. Part of the money which is received from fines has been diverted to areas other than enforcement. Comparison of salaries with surrounding states shows Indiana to be lagging by 20% to 40% in terms of salary levels.

D. Mr. Greg Zoeller, Chief Counsel, Office of Attorney General, discussed new federal regulations regarding commercial drivers' licenses (CDL's). Mr. Zoeller reported that while there is a three year period for compliance, the Bureau of Motor Vehicles (BMV) must comply with current federal rules including offenses such as repeat drunk driving offenses. He said that the agency could make substantial steps to comply by fixing their computer system so that it does not automatically grant the CDL privileges to a person along with a hardship license. He noted that in some instances judges who award a hardship license to an individual do not realize that the BMV computer system automatically grants commercial driver's privileges back to the person as well. Mr. Zoeller also noted that this is a change that could be made without any legislation. He mentioned that there may be minor changes to be made in state law as well as BMV rules to comply with the newly adopted federal rules but that changing the computer system would be a significant step in helping the Bureau comply. He advocated that the BMV conduct a rule making process to more tightly restrict automatic receipt of CDL privileges. If the Bureau does not act, legislation may be necessary. He warned that the current single automatic renewal of CDL's with hardship licenses will produce a "disaster" at some point.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee made the following recommendations related to the topic assigned by the Legislative Council:

(1) That the BMV undertake a process to correct the current situation where CDL's are automatically granted when a court approves a hardship license. The Committee believes that where a judge has ruled that both a hardship license and a CDL should be issued, both should be issued. However, absent a judge's ruling reinstating a CDL, the BMV should not automatically issue a CDL when a hardship license is issued.

(2) That the State Department of Personnel do a salary review study of motor carrier inspectors' salaries in Indiana compared to adjoining states and forward this information to the State Budget Agency and to the four fiscal analysts for the Senate Finance Committee and the House Ways and Means Committee.

(3) That the question of implementing a state civil fining authority by the Department of Revenue to replace ticket filings in local courts be referred to the Commission on Courts. AROC does not have the expertise to deal with this issue.

W I T N E S S L I S T R E L A T E D T O A S S I G N E D T O P I C

The Honorable Marvin Riegsecker
Indiana State Senator

Mr. Kenny Cragen
Indiana Motor Truck Association, Inc.

Mr. James Poe
Indiana Department of Revenue

Major John Hill
Indiana State Police

Mr. Greg Zoeller
Deputy Attorney General

Ms. Jennifer Thuma
Deputy Attorney General

Mr. Gerald Coleman
Commissioner
Bureau of Motor Vehicles